

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

FREDERICK SPENCER,

Petitioner,

v.

JAMES PURKETT,

Respondent.

)
)
)
)
)
)
)
)
)
)

No. 4:03CV1756 TIA

MEMORANDUM AND ORDER

This matter is before the Court sua sponte, pursuant to correspondence from Petitioner Frederick Spencer. The parties consented to the jurisdiction of the undersigned pursuant to 28 U.S.C. § 636(c).

On February 1, 2006, the undersigned issued an Order directing the Clerk's Office not to file further pleadings from Petitioner unless directed by the Court upon a showing of good cause. Petitioner's most recent letter to this Court requests clarification regarding the procedure for demonstrating good cause for filing "documentary evidence."

The Rules Governing Section 2254 Cases clearly speak to the procedures inmates and the respondent must follow in habeas corpus petitions. Under Rule 5(e), "[t]he petitioner may submit a reply to the respondent's answer or other pleading within a time fixed by the judge." This provision allows one reply, not several. However, this Court has generously allowed Petitioner to file two formal Traverses, along with countless exhibits and requests for judicial notice filed consistently since the onset of this litigation. Nothing in the habeas corpus rules or in the Federal Rules of Civil Procedure allows a petitioner to file exhibits in support of pleadings at will. Indeed, Rule 7(a) of the Rules Governing Section 2254 Cases gives the judge discretion to "direct the parties to expand the

record by submitting additional materials relating to the petition.” Given the plethora of documents filed by Petitioner in this case, the Court, in its discretion, finds that further expansion of the record is unnecessary.

However, as stated in its previous Order, the Court will allow Petitioner to file additional pleadings/documents upon a showing of good cause. Petitioner must demonstrate to the Court that the documents are relevant to the Petition and are not cumulative of those already filed. The Court will then order the Clerk of the Court either to file the documents or return them to the Petitioner.

Accordingly,

IT IS HEREBY ORDERED that Petitioner shall show good cause for filing additional pleadings/documents by demonstrating to the Court that said pleadings/documents are relevant and non-cumulative.

/s/ Terry Adelman
UNITED STATES MAGISTRATE

JUDGE

Dated this 27th day of March, 2006.